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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,606	11/13/2003	Rondell Paul Little JR.	71564-01	9006

7590

07/07/2005

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EXAMINER
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BOYKIN, TERRESSA M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/712,606	Applicant(s) LITTLE ET AL	
	Examiner Terressa M. Boykin	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3-7-05.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 11-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language

**Claims 1-8,11-24 are rejected under 35 U.S.C. 102(e) as being anticipated by USP**

**6756350 see abstract, cols. 2 line 13 through col. 4 line 40, col. 10 and claims 1-2.**

**USP 6756350 discloses** a transparent consumer product, such as an aqueous heavy duty liquid having colorant dye, in a clear bottle, wherein the material of which said bottle is made comprises fluorescent dye to protect the colorant dye. The f-dye may, alternatively or in addition to, be present in a clear label on such bottle.

Classes of fluorescent dyes which may be used include stilbenes; coumarin and carbostyryl compounds; 1,3-diphenyl-2-pyrazolines; naphthalimides; benzazdyl substitution products of ethylene, phenylethylene, stilbene, thiophene; and combined heteroaromatics. F-dye may be present in the formulation contained in the container, but is preferably excluded or essentially excluded. If present, f-dye is used in the formulation at from about 0.001% to about 3%, preferably between 0.001% and 0.5%, e.g., 0.1%, 0.2%, 0.3%, etc.

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Among families of UV absorbers which may be used where appropriate are benzophenones, salicyclates, benzotriazoles, hindered amines and alkoxy (e.g., methoxy) cinnamates. Recitation of these classes is not meant to be a limitation on other classes of UV absorbers which may be used.

The UV absorber may be present in the formulation at from about 0.001% to about 3%, preferably, if present, between 0.001 and 0.05%, although in certain cases preferred ranges may be from 0.05% to 1%.

With regard to the CIE value, any properties or characteristics inherent in the prior art, although unobserved or detected by the reference, would still anticipate the claimed invention. Note In re Swinehart, 169 USPQ 226. "It is elementary that the mere recitation of a newly discovered...property, inherently possessed by things in the prior art, does not cause claim drawn to those things to distinguish over the prior art".

With regard to the absorbency values note:

<u>Absorbency Values for Two Typical Plastic Bottles</u>		
Wavelength Nm	Polyethylenes (HDPE); 0.960 mm thickness	Polypropylenes (PP); 0.423 mm thickness
254 (non-visible)	1.612	1.886
310 (non-visible)	1.201	0.919
360 (non-visible)	0.980	0.441
590 (visible)	0.525	0.190
640 (visible)	0.477	0.269

\*Note: all readings are taken in "A" mode (absorbency mode)

\*Note: zero instrument with every new wavelength change and/or new sample.

Thus, there appears to be no significant difference between the reference(s) and that which is claimed by applicant(s). Any differences not specifically mentioned appear to be conventional. Consequently, the claimed invention

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cannot be deemed as novel and accordingly is unpatentable.

### **Correspondence**

**Please note that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov)), from the Office of Public Records and from commercial sources. Applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Terressa Boykin whose telephone number is 571 272-1069. The examiner can normally be reached on Monday through Friday from 6:30am to 3:00pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The general information number for listings of personnel is ( 571-272-1700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tmb

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A handwritten signature in black ink that reads "Terressa Boykin". The script is cursive and fluid, with the first name "Terressa" and last name "Boykin" clearly distinguishable.

**Examiner Terressa Boykin**

**Primary Examiner**

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